

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JUAN MORGAN,

Plaintiff,

V.

Civil Action 05-0989 (RCL)

ED SCHAFFER, Secretary, United States
Department of Agriculture,

Defendant.

JOINT MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY

The parties respectfully request that this Court extend the fact discovery period in this case to January 16, 2009 and the expert discovery period to February 27, 2009. The discovery period is currently set to close on September 30, 2008. As set forth below, there is good cause to grant this motion to extend.

1. Although this case was filed in 2005, Plaintiff has been represented by counsel only since February 2008. Prior to that time, Plaintiff was appearing pro se, was in ill-health and was located in Panama. As a result, prior to February 2008, little progress was made with respect to discovery in this case. However, since February 2008, counsel for Plaintiff and counsel for Defendant have been working diligently to complete discovery.¹ That said, the discovery process has been difficult in this case due to the fact that: (1) none of the persons who have information relevant to the matters at issue in this case (including Plaintiff) resides in the United States; and (2) Plaintiff is in ill-health and, as a result, has been slow to provide his

¹ In May 2008, the last undersigned Assistant United States Attorney (the “AUSA”) assumed primary responsibility for this case. Prior to May 2008, the AUSA had had no involvement with respect to this case.

counsel with certain records that are essential to the litigation of this case. Moreover, deposition discovery of Defendant was delayed until recently because: (1) the alleged discriminating officials (“ADOs”) are no longer employed by Defendant and reside outside of the United States; and (2) Defendant had a difficult time locating the ADOs and scheduling their depositions.

2. Despite the challenges counsel have had to face with respect to discovery in this case, as of the date of this filing, they have been able to complete the vast majority of merits-based discovery. In the last several weeks, Plaintiff’s counsel has taken the depositions of the ADOs. By the current discovery cut-off date (September 30, 2008), the parties expect to complete all merits-based discovery in this case.

3. However, the parties still have a substantial amount of discovery to complete with respect to the issue of damages. Specifically, as of the date of this filing, the parties still have to complete the following damages-based discovery: (1) Plaintiff must collect and provide Defendant with medical records from each of his treating physicians (there are at least three key treating physicians and each of those three physicians is located in Panama); (2) Plaintiff must provide Defendant with records concerning medical-related benefits that he has received/is currently receiving from the U.S. Army; (3) following its receipt of the above-described records, Defendant must depose Plaintiff on the issue of damages²; (4) following Plaintiff’s production of his treating physicians’ medical records, the parties must depose the treating physicians (who, as stated above, are located in Panama); (5) Plaintiff must make himself available for an independent medical examination; and (6) following all of the above, Defendant must be afforded an opportunity to designate an expert or experts on the issue of damages.

² Defendant has already deposed Plaintiff on the issue of liability.

4. Although the parties will be unable to complete discovery by the current discovery end date of September 30, 2008, it will not be for lack of diligent effort. In fact, by September 30, 2008, the parties will have made substantial progress with respect to the completion of discovery. Thus, for the reasons set forth above, the parties respectfully request that this Court extend the fact discovery period to January 16, 2009 and the expert discovery period to February 27, 2009. A proposed order is attached hereto.

Dated: September 15, 2008

Respectfully submitted,

/s/

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